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SENATE MEMORIAL 45

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

David Ulibarri

A MEMORIAL

REQUESTING THE ENVIRONMENTAL IMPROVEMENT BOARD TO REJECT
CONSIDERATION OF A PETITION TO IMPLEMENT A CAP ON GREENHOUSE
GAS EMISSIONS IN NEW MEXICO.

WHEREAS, the environmental improvement board is now
considering a petition to implement a cap on greenhouse gas
emissions in New Mexico; and

WHEREAS, the petition requests the board to cap statewide
greenhouse gas emissions at twenty-five percent below 1990
levels by the year 2020, which is a more aggressive reduction
than the reductions being considered at the federal level; and

WHEREAS, if adopted, the cap would apply to all New Mexico
entities that require an air permit from the department of
environment, including oil and gas producers, refineries,
manufacturers, cement and asphalt plants, power plants,

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1 universities, military bases, mineral processing operations and
2 numerous others; and

3 WHEREAS, no study has been performed on what the economic
4 impact of compliance with the cap to the state would be; and

5 WHEREAS, complying with the proposed cap could have a
6 negative impact on the state's economy; and

7 WHEREAS, several parties have filed a complaint in the
8 fifth judicial district court seeking a declaratory judgment
9 that the environmental improvement board lacks the statutory
10 authority to consider a petition to implement a cap on
11 greenhouse gas emissions in New Mexico; and

12 WHEREAS, while the legislature has delegated authority to
13 the board to issue rules and adopt standards for a number of
14 environmental management programs, it has not granted the board
15 the authority to regulate greenhouse gas emissions without
16 first establishing ambient air quality standards for greenhouse
17 gases; and

18 WHEREAS, the United States environmental protection agency
19 has not yet adopted a national ambient air quality standard for
20 greenhouse gases; and

21 WHEREAS, because there are no national ambient air quality
22 standards for greenhouse gases and the environmental
23 improvement board has not established state ambient air quality
24 standards for greenhouse gases pursuant to the Air Quality
25 Control Act, the board does not have authority to consider

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1 regulation of greenhouse gases as requested in the petition now
2 before it;

3 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
4 OF NEW MEXICO that the environmental improvement board be
5 requested to reject consideration of the petition to implement
6 a cap on greenhouse gas emissions in New Mexico; and

7 BE IT FURTHER RESOLVED that copies of this memorial be
8 transmitted to the environmental improvement board and the
9 governor.